

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1425, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Daniels

Daniels-TEK-FS-Req#4017
3/9/2020 5:06 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1425

By: Daniels and Standridge of
the Senate

and

Kannady of the House

FLOOR SUBSTITUTE

[court fines and costs - failure to pay - payment of
fines, costs, fees or assessments - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2011, Section 983, as
amended by Section 2, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2019,
Section 983), is amended to read as follows:

Section 983. A. ~~Any defendant found guilty of an offense in
any court of this state may be imprisoned for nonpayment of the
fine, cost, fee, or assessment when the trial court finds after
notice and hearing that the defendant is financially able but
refuses or neglects to pay the fine, cost, fee, or assessment. A
sentence to pay a fine, cost, fee, or assessment may be converted
into a jail sentence only after a hearing and a judicial
determination, memorialized of record, that the defendant is able to~~

1 ~~satisfy the fine, cost, fee, or assessment by payment, but refuses~~
2 ~~or neglects so to do.~~

3 ~~B. After a judicial determination that the defendant is able to~~
4 ~~pay the fine, cost, fee, or assessment in installments, the court~~
5 ~~may order the fine, cost, fee, or assessment to be paid in~~
6 ~~installments and shall set the amount and date for each installment.~~

7 ~~C. In addition, the district court or municipal court, within~~
8 ~~one hundred twenty (120) days from the date upon which the person~~
9 ~~was originally ordered to make payment, may send notice of~~
10 ~~nonpayment of any court ordered fine and costs for a moving traffic~~
11 ~~violation to the Department of Public Safety with a recommendation~~
12 ~~of suspension of driving privileges of the defendant until the total~~
13 ~~amount of any fine and costs has been paid. Upon receipt of payment~~
14 ~~of the total amount of the fine and costs for the moving traffic~~
15 ~~violation, the court shall send notice thereof to the Department, if~~
16 ~~a nonpayment notice was sent as provided for in this subsection.~~
17 ~~Notices sent to the Department shall be on forms or by a method~~
18 ~~approved by the Department.~~

19 D. The court shall conduct a hearing at time of sentencing or
20 other final order to determine the immediate ability of the
21 defendant to pay restitution, fines, costs, fees and assessments.
22 The court may order these to be paid in installments and shall set
23 the amount and date for each installment. The court shall instruct
24 the defendant that, if at any time the defendant is unable to pay

1 any financial obligations ordered by the court, the defendant has
2 the right to appear before the court to present evidence regarding
3 ability to pay the amount due and to request the imposition of a
4 payment plan, a modification of a payment plan or a reduction in the
5 amount owed or waiver of payment.

6 B. Notwithstanding any other provision of the Oklahoma
7 Statutes, costs, fees and assessments shall not be considered a
8 penalty for the underlying offense. Any costs, fees and assessments
9 due may be collected in the same manner as a judgment in a civil
10 action. No person shall be incarcerated for being in default of
11 payment of court-imposed costs, fees or assessments, unless held in
12 contempt of court for willful refusal or neglect of payment. In
13 determining willful refusal or neglect to pay or inability to pay
14 restitution, fines, costs, fees or assessments, the court shall
15 consider:

16 1. Undue hardship to the defendant or to the legal dependents
17 of the defendant;

18 2. The defendant has not made a good faith effort to comply
19 with the order;

20 3. The present employment of the defendant;

21 4. The earning capacity of the defendant;

22 5. The availability and convertibility of any existing assets
23 owned by the defendant;
24

1 6. Whether and to what extent the defendant has outstanding
2 debts and liabilities;

3 7. The health of the defendant, including mental and behavioral
4 health issues that diminish the ability of the defendant to pay;

5 8. Access to transportation;

6 9. Public assistance, including but not limited to, state
7 administered general assistance, temporary family assistance, aid to
8 the elderly, blind or disabled, SNAP benefits and supplemental
9 social security; and

10 10. Any other relevant issues as determined by the court.

11 C. 1. Any defendant sentenced, or upon final disposition,
12 ordered to pay restitution or fines may be incarcerated for
13 nonpayment when the trial court finds after notice and hearing that
14 the defendant is financially able but refuses or neglects to pay the
15 restitution or fines. A sentence to pay restitution or fines may be
16 converted into a jail sentence only after a hearing and a judicial
17 determination, memorialized of record, that the defendant is able to
18 pay restitution or fines by payment but refuses or neglects to do
19 so.

20 2. The court shall send a notice to the defendant by U.S. mail
21 to his or her last known mailing address, and by electronic mail or
22 text message to the defendant's electronic mail address or cellular
23 phone number, stating that:

- 1 a. the court will conduct a hearing at a specified time,
2 place and date to determine if the defendant has
3 willfully refused or neglected to pay restitution or
4 finest, or is unable to pay the amount owed,
5 b. the defendant may present evidence at the hearing to
6 show his or her inability to pay the restitution or
7 finest, and
8 c. if the defendant fails to appear at the hearing for
9 failure to pay restitution or fines, a warrant for
10 failure to appear may be issued for the arrest of the
11 defendant. The court shall conduct the hearing within
12 three (3) business days after the arrest of the
13 defendant.

14 3. After a judicial determination that the defendant is able to
15 pay the restitution or fines in installments, the court may order
16 the restitution or fines to be paid in installments and shall set
17 the amount and date for each installment.

18 D. If the court finds that the failure to pay restitution or
19 finest was not willful and that defendant is unable to pay the amount
20 owed, the court may:

- 21 1. Adjust the terms of payment of restitution or fines;
22 2. Lower the amount of the restitution or fines;
23 3. Waive the restitution or fines upon a finding by the court
24 that the defendant is unable to pay and that such status is unlikely

1 to change in the foreseeable future, or that the fines are
2 preventing the defendant from obtaining basic necessities;

3 4. Order the defendant to perform community service in lieu of
4 a payment of the restitution or fine; or

5 5. Enter a civil judgment for all or a portion of the unpaid
6 restitution or fines to be paid either in whole or in installments.

7 E. Upon the finding of the court that failure to pay
8 restitution, fines, costs, fees or assessments was not willful, no
9 costs, fees or assessments attributable to the notice or hearing
10 held under this subsection or subsection D of this section shall be
11 ordered by the court.

12 F. If the court finds that nonpayment of restitution or fines
13 was willful, a defendant may be incarcerated in the county jail for
14 a term not to exceed thirty (30) days. The defendant shall be
15 credited with an amount as specified by the court, not less than
16 Fifty Dollars (\$50.00) per day for time served for nonpayment of
17 fines. The court may release the defendant upon satisfactory
18 arrangements to bring the defendant into compliance. If the
19 defendant remains in noncompliance after ninety (90) days from
20 release, the defendant may again be served with notice as provided
21 in subsection C of this section and the court may again determine if
22 the noncompliance is willful and order the defendant incarcerated as
23 provided in this subsection.

1 G. If the defendant fails to pay court-imposed restitution,
2 finances, costs, fees or assessments, after a civil judgment for
3 nonwillful failure to pay for at least six (6) months, the court
4 clerk may retain an agent to collect, or institute proceedings to
5 collect, or establish an in-house collection procedure to collect
6 all monies owed. If an agent is used, the court clerk shall request
7 the county purchasing agent to utilize normal competitive bidding
8 procedures applicable to the county to select and retain the agent.

9 H. The following allocation formula shall be used for monies
10 paid into the court: payments shall first be credited toward
11 satisfying restitution, then fines. Once restitution and fines have
12 been paid, payments shall be credited towards the court-imposed
13 costs, fees and assessments.

14 I. The Court of Criminal Appeals shall implement procedures and
15 rules consistent with the provisions of this section for methods of
16 establishing payment plans of fines, costs, fees, and assessments by
17 indigents, which procedures and rules shall be distributed to all
18 district courts and municipal courts by the Administrative Office of
19 the Courts.

20 SECTION 2. This act shall become effective November 1, 2020.

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22 57-2-4017 TEK 3/9/2020 5:06:13 PM
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